

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

SAMUEL LUNDVALL,

Petitioner,

vs.

No. CV 17-01080 RB/KRS

MS. CURRY,

Respondent.

MEMORANDUM OPINION AND ORDER OF DISMISSAL

THIS MATTER is before the Court under Fed. R. Civ. P. 41(b) on the Petition Under 28 U.S.C. § 2241 for Writ of Habeas Corpus filed by Petitioner Samuel Lundvall (Doc. 1). The Court will dismiss the Petition without prejudice for failure to comply with Court orders and failure to prosecute.

Petitioner filed his habeas corpus Petition on October 30, 2017. (Doc. 1.) Petitioner did not pay the \$5 filing fee or submit an application to proceed without prepayment of fees or costs pursuant to 28 U.S.C. § 1915. Because Petitioner failed to either pay the \$5 filing fee or submit an application to proceed under § 1915, on November 2, 2017, the Court ordered Petitioner to cure this deficiency within 30 days by either paying the \$5 or submitting an application to proceed *in forma pauperis*. (Doc. 2.) The Order advised Petitioner that, if he failed to cure the deficiency within the 30-day time period, the Court could dismiss this proceeding without further notice. (*Id.* at 1.) The Court also sent Petitioner the forms for submitting an application under § 1915. (*Id.* at 2.)

More than 30 days have elapsed, and Petitioner has not paid the filing fee, submitted an application to proceed *in forma pauperis*, or otherwise responded to the Court's November 2, 2017 Order. The Court entered an Order to Show Cause on March 28, 2018, directing Petitioner Lundvall to show cause why the case should not be dismissed for failure to comply with the Court's November 2, 2017 Order. (Doc. 4.) The copy of the Court's March 28, 2018 Order to Show Cause that was mailed to Petitioner's address of record was returned as undeliverable, indicating that Petitioner has been transferred to a different facility or is no longer in custody. (Doc. 5.) The Court conducted a search of New Mexico correctional facility records and did not locate a new address for Petitioner Lundvall. Petitioner Lundvall has never responded to the Court's March 28, 2018 Order to Show Cause and has not filed any document with the Court since October 30, 2017.

Pro se litigants are required to follow the federal rules of procedure and simple, non-burdensome local rules. *See Bradenburg v. Beaman*, 632 F.2d 120, 122 (10th Cir. 1980). The local rules require litigants, including prisoners, to keep the Court apprised of their proper mailing address and to maintain contact with the Court. D.N.M. LR-Civ. 83.6. Petitioner Lundvall has failed to comply with D.N.M. LR-Civ. 83.6.

A prisoner litigant must also pay the filing fee or comply with the requirements of 28 U.S.C. § 1915. Under 28 U.S.C. §§ 1914(a) and 1915(a), the Court is required collect the \$5 fee from the Petitioner or authorize Petitioner to proceed without prepayment of the fee. Petitioner Lundvall has failed to comply with 28 U.S.C. § 1915 and with the Court's November 2, 2017 and March 28, 2018 Orders.

Petitioner Lundvall has failed to comply with Court orders and failed to prosecute this action by not keeping the Court apprised of his current address and not paying the filing fee or

submitting an application to proceed under 28 U.S.C. § 1915. The Court may dismiss an action under Fed. R. Civ. P. 41(b) for failure to prosecute, to comply with the rules of civil procedure, or to comply with court orders. *See Olsen v. Mapes*, 333 F.3d 1199, 1204, n.3 (10th Cir. 2003). Therefore, the Court will dismiss this civil proceeding pursuant to Rule 41(b) for failure to comply with the Court's Orders and failure to prosecute this proceeding.

IT IS THEREFORE ORDERED that the Petition Under 28 U.S.C. § 2241 for Writ of Habeas Corpus filed by Petitioner Samuel Lundvall (Doc. 1) is **DISMISSED** without prejudice under Fed. R. Civ. P. 41(b) for failure to comply with Court orders and failure to prosecute.



ROBERT C. BRACK
UNITED STATES DISTRICT JUDGE